THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20185 of 2005

14.9.2005

Between:

Chennuru Saraswathi, W/o.Dr.C.Sudhakar, Housewife,

Rajampet, Kadapa District.

… Petitioner

AND

1. State Election Commission, State of A.P., rep. By the

Election Commissioner, 3rd Floor, Budhabhavan, M.G.Road,

Secunderabad and two others.

… Respondents.

ORDER:

The petitioner is resident of Rajampet. The election to Rajampet Nagar Panchayat was notified on 29.8.2005. The petitioner filed her nomination as Ward member for Ward No.3. After scrutiny, the same was rejected by the Election Officer, the third respondent herein, on the ground that the petitioner does not belong to backward class community and that she belongs to Gajula Balija caste. This endorsement dated 06.9.2005 rejecting nomination of the petitioner is assailed in the writ petition.

As per Rule 10 of A.P. Municipal Councils/Nagar Panchayats (Conduct of Elections) Rules, 1965 (the Rules, for brevity), if a person who filed nomination does not belong to a community for which the ward is reserved, the nomination can be rejected. Further, as per Rule 12 of the Rules, improper rejection or improper acceptance is a ground for Election Petition and therefore, as per Article 243-ZG of Constitution of India, the writ petition is not maintainable.

In **V.Narayana v. Election Officer, Alwal Municipality** (**Narayana**, for brevity), this Court has held that when a nomination is rejected, a writ petition would not lie. It was held therein that challenge to election means and includes a challenge to any intermediary stage in the election and that when the nomination is rejected or accepted improperly, the same has to be agitated by way of Election Petition. The decision in **Narayana** was followed by Full Benches of this Court in **A.P.Sarpanchas Association v Govt. of A.P.** and **G.Kanaka Durga v State Election Commissioner**. Further in **C.Subrahmanyam v K.Ramanjaneyulu**, the Supreme Court held that even if the election is challenged on the ground of non-compliance of the provisions of the A.P. Panchayat Raj Act, 1994 or Conduct of Election Rules, 1961, the writ petition would not be maintainable and it is only by

way of Election Petition that such thing can be challenged. In view of the settled position, this writ petition is not maintainable.

The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

September 14, 2005.

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